

§ 264.4

8 CFR Ch. I (1–1–02 Edition)

(h) *Date of record of lawful permanent residence*—(1) *Presumption of lawful admission for permanent residence.* If the application is granted, the applicant's permanent residence will be recorded as of the date of the applicant's arrival in the United States under the conditions which caused him/her to be eligible for presumption of lawful admission for permanent residence.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* If the application is granted, the applicant's permanent residence will be recorded as of his/her date of birth.

(i) *Denied application.* If the application is denied, the decision may not be appealed.

(Secs. 101(a)(20), 103, 262, 264 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(20), 1103, 1302, 1304)

[47 FR 941, Jan. 8, 1982, as amended at 58 FR 48779, Sept. 20, 1993; 63 FR 12987, Mar. 17, 1998]

§ 264.4 Application to replace a Nonresident Alien Border Crossing Card.

An application for a replacement Nonresident Alien Border Crossing Card must be filed pursuant to § 212.6(e) of this chapter. An application for a replacement Form I-185, Nonresident Alien Canadian Border Crossing Card, must be filed on Form I-175. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application. An application for a replacement Form I-586, Nonresident Alien Border Crossing Card, must be filed on Form I-190. A fee as prescribed in § 103.7(b)(1) of this chapter must be submitted at time of application to replace a lost, stolen, or mutilated card.

[60 FR 40069, Aug. 7, 1995]

§ 264.5 Application for a replacement Permanent Resident Card.

(a) *General.* An application for a replacement alien registration card must be filed on Form I-90 with the initial evidence required on the application form and with the fee specified in 8 CFR 103.7(b)(1); except that no fee is required for an application filed pursuant to paragraphs (b)(7) through (b)(9) of this section, or paragraphs (d)(2) or (d)(4) of this section.

(b) *Permanent residents required to file.* A permanent resident shall apply for a replacement Permanent Resident Card:

(1) When the previous card has been lost, stolen, or destroyed;

(2) When the existing card will be expiring within six months;

(3) When the existing card has been mutilated;

(4) When the bearer's name or other biographic information has been legally changed since issuance of the existing card;

(5) When the applicant is taking up actual residence in the United States after having been a commuter, or is a permanent resident taking up commuter status;

(6) When the applicant has been automatically converted to permanent resident status;

(7) When the previous card was issued but never received;

(8) When the bearer of the card reaches the age of 14 years, unless the existing card will expire prior to the bearer's 16th birthday; or

(9) If the existing card bears incorrect data on account of Service error.

(c) *Other filings by a permanent resident.*

(1) A permanent resident shall apply on Form I-90 to replace a prior edition of the alien registration card issued on Form AR-3, AR-103, or I-151.

(2) A permanent resident may apply on Form I-90 to replace any edition of the Permanent Resident Card for any other reason not specified in paragraphs (b) and (c)(1) of this section.

(d) *Conditional permanent residents required to file.* A conditional permanent resident whose card is expiring shall apply to remove the conditions on residence on Form I-751. A conditional permanent resident shall apply on Form I-90:

(1) To replace a card that was lost, stolen, or destroyed;

(2) To replace a card that was issued but never received;

(3) Where the prior card has been mutilated;

(4) Where the prior card is incorrect on account of Service error; or

(5) Where his or her name or other biographic data has changed since the card was issued.

(e) *Application process*—(1) *Accompanying documents*—(i) *Photographs*. An I-90 application must be filed with two color photographs meeting the specifications on the application form.

(ii) *Prior evidence of alien registration*. An I-90 application filed under paragraph (b) (2), (3), (4), (5), (8), or (9) of this section must include the prior Permanent Resident Card or other evidence of permanent residence or commuter status.

(iii) *Evidence of name or other biographic change*. An I-90 application filed under paragraph (b)(4) of this section must include the order, issued by a court of competent jurisdiction, changing the applicant's name, or with the applicant's marriage certificate. An application to change other biographic data on a card must include documentary evidence conclusively establishing the new data.

(2) *Filing*—(i) *Where to file*. An I-90 application shall be filed by the applicant with the Service office that has jurisdiction over his or her place of residence, except for those applicants filing an I-90 pursuant to paragraph (b)(6) of this section, who shall file the application with the Director of the Service Center having jurisdiction over his or her place of residence. If the applicant's place of residence is outside the United States and there is no Service office in that foreign country, the application shall be filed by the applicant, in person, at the American Consulate with jurisdiction over his or her place of residence.

(ii) *Data collection form*. An applicant must execute the signature and fingerprint blocks of Form I-89, Data Collection Form, at a Service office when filing an I-90 application.

(3) *Miscellaneous*—(i) *Fingerprinting*. After filing an I-90 application, each applicant filing under paragraph (b)(8) of this section shall be fingerprinted on Form FD-258, Applicant Card, as prescribed in §103.2(e) of this chapter.

(ii) *Interview*. An applicant may be required to appear before an immigration officer or consular officer and be interviewed under oath concerning eligibility.

(iii) *Waiver of requirements*. The Service may waive the photograph, in person filing, fingerprinting, and I-89 exe-

cution requirements of this section in cases of confinement due to advanced age or physical infirmity.

(f) *Decision*. If an application is denied, the applicant shall be notified of the reasons for denial. No appeal shall lie from this decision.

(g) *Eligibility for a card while in deportation or exclusion proceedings*. A person in exclusion proceedings shall be entitled to evidence of permanent resident status until ordered excluded. Such evidence shall be in the form of a temporary Form I-551 issued for a period sufficient to accomplish the exclusion proceedings. A person in deportation proceedings shall be entitled to evidence of permanent resident status until ordered deported or excluded. Issuance of an Permanent Resident Card to a person in exclusion or deportation proceedings, provided the person had status as a lawful permanent resident when the proceeding commenced, shall not affect those proceedings.

[58 FR 48779, Sept. 20, 1993, as amended at 59 FR 1466, Jan. 11, 1994; 59 FR 33905, July 1, 1994; 63 FR 12987, Mar. 17, 1998; 63 FR 70316, Dec. 21, 1998; 65 FR 57724, Sept. 26, 2000]

§ 264.6 Application for an initial or replacement Form I-94, Nonimmigrant Arrival-Departure Document, or Form I-95, Crewmen's Landing Permit.

(a) *General*. An application for a new or replacement Form I-94 or replacement Form I-95 must be made on Form I-102. The application must be filed with the fee required in §103.7 of this chapter and the initial evidence required on the application form.

(b) *Filing*. An application may be approved if filed by an alien in the United States who:

(1) Applies to replace a lost or stolen Form I-94 or Form I-95 that had been issued to him or her;

(2) Applies to replace a mutilated Form I-94 or Form I-95 issued to him or her; or

(3) Was not issued a Form I-94 pursuant to §235.1(f)(1)(i), (iii), (iv), (v), or (vi) of this chapter, when last admitted as a nonimmigrant, has not since been issued a Form I-94, and now requires a Form I-94.

(c) *Processing*. A pending application filed under paragraph (a) of this section